

No. 1229, dated Chandigarh. the 13th November, 1968.

The award (four copies) be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Haryana, Chandigarh. as required by section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 10378-ASOIII-Lab-68/29108.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of Messrs Ego Metal Works, Gurgaon:—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Application No. 235 of 1968

between

Shri Badle Ram workman and the management of M s Ego Metal Works, Gurgaon.

Present:—

Shri C. B. Kaushik, for the workman.

Shri S. L. Gupta, for the management.

AWARD

Shri Badle Ram was in the service of M s Ego Metal Works, Gurgaon. He was a party to a settlement dated 14th June, 1967, under which the workmen who entered into this settlement were to get 15% efficiency allowance. The management did not honour this settlement and the applicant along with others had to file an application in this Court under the provisions of section 33C(2) of the Industrial Disputes Act, 1947, praying that the amount due to him may be computed. During the pendency of his application the management terminated his services and the applicant has made an application under section 33A of the Industrial Disputes Act complaining that since he was a party to the application under section 33C(2) of the Industrial Disputes Act, 1947, which was pending in this Court, the management could not terminate his service without seeking the approval of this Court for the action taken by them. He has, therefore, prayed that he may be ordered to be reinstated with continuity of service and full back wages.

Notice of this application was given to the management who have filed their written statement. It is admitted that the application of the applicant under section 33C(2) of the Industrial Disputes Act was pending in this Court when his services were terminated but it is pleaded that the application in question did not constitute an industrial dispute and therefore the provisions of section 33 of the Industrial Disputes Act were not attracted and it was not necessary to get any prior permission or approval of this Court and so the present complaint is not competent. The following issue was framed:—

Whether the management have contravened the provisions of section 33 of the Industrial Disputes Act and for this reason the present complaint is competent?

I have heard the learned representatives of the parties. The short question which requires determination is whether an application by a workman filed under the provisions of section 33C(2) praying that the amount which he is entitled to receive from his employer may be computed constitutes an industrial dispute. The submission of the learned representative of the applicant is that the expression "industrial dispute" as defined in clause K of section 2 of the Industrial Disputes Act means any dispute or difference between employers and employers or between employers and workmen or between workmen and workmen which is connected with the employment or non-employment or terms of employment or with the conditions of labour of any person. It is submitted that the non-payment of the money by the employer which is due to the workman would be an industrial dispute and the employer is not entitled to dispense with the service of the workman during the pendency of his application under section 33C(2) without seeking the approval of the Court in which his application is pending.

I have carefully considered the submissions of the learned representative of the applicant and in my opinion a mere application under section 33C(2) of the Industrial Disputes Act, praying that the amount to which a workman is entitled may be computed does not constitute an industrial dispute as defined in clause K of section 2 of the said Act. The proceedings under section 33C(1) and under section 33C(2) of the Industrial Disputes Act are in the nature of the execution proceedings and no new rights can be created or any existing right extinguished by means of an application under section 33C(2). Where an industrial dispute exists or is apprehended, then under the provisions of sub-section (1) of section 10 of Industrial Disputes Act the appropriate Government alone can refer the said industrial dispute for adjudication and no Court is entitled to take cognizance of any industrial dispute directly. I, therefore, hold that no industrial dispute was pending in this Court and it was not necessary for the management to get the approval of this Court for the action taken by them against the applicant. This application is hereby dismissed but I make no order as to costs.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Faridabad.

Dated 16th October, 1968